

HEARING DATE AND TIME: OCTOBER 31, 2024 AT 10:30 A.M. (ET)
OBJECTION DEADLINE: OCTOBER 25, 2024

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

ONE EDGE MARINA FINANCE
COMPANY LLC, *et al.*,

Chapter 11

Lead Case No.: 24-44027 (ESS)

Jointly Administered

RELATED DOC. NO. 23

Debtors.

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OBBP RETAIL OWNER, LLC'S LIMITED OBJECTION AND RESERVATION OF RIGHTS TO THE DEBTORS' MOTION FOR AN ORDER: (I) AUTHORIZING THE PRIVATE SALE OF SUBSTANTIALLY ALL OF THE ASSETS OF DEBTORS ONE15 BROOKLYN MARINA, LLC, ONE15 RESTAURANT LLC AND ONE15 BROOKLYN SAIL CLUB LLC TO RADCLIFF MANAGEMENT LLC FREE AND CLEAR OF ALL LIENS CLAIMS AND ENCUMBRANCES, (II) AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN UNEXPIRED LEASES AND EXECUTORY CONTRACTS, (III) APPROVING DEBTOR IN POSSESSION FINANCING FROM PURCHASER PENDING CLOSING, AND (IV) SEEKING ENTRY OF AN ORDER SCHEDULING HEARING ON SHORTENED NOTICE

OBBP Retail Owner, LLC ("**OBBP**"), as predecessor-in-interest, 360 Brooklyn Investors LLC, by and through undersigned counsel, hereby files this limited objection and reservation of rights (the "**Objection**") to the Selling Debtors¹ motion for an order (i) authorizing the private sale of substantially all of the Selling Debtors' assets to Radcliff Management LLC, or its assignee or designee ("**Purchaser**"), free and clear of any and all liens, claims, encumbrances and interests and approving the Asset Purchase Agreement, by and between the Selling Debtors and the Purchaser, dated October 17, 2024 ("**APA**") in connection therewith; and (ii) authorizing the assumption and assignment of the Selling Debtors' unexpired leases and license agreement (collectively, the "**Leases**") to Purchaser; (iii) approving debtor-in-possession financing pending closing on the APA, and (iv) entering an Order scheduling a hearing to consider the relief sought

¹ The Selling Debtors are ONE15 Brooklyn Marina, LLC ("**Marina**"), ONE15 Restaurant LLC ("**Restaurant**") and One15 Brooklyn Sail Club, LLC ("**Sail Club**") and together with Marina and Restaurant, the "**Selling Debtors**",

herein on shortened notice (the "**Sale Motion**") [ECF No. 23]. In support of the Objection, OBBP states as follows:

BACKGROUND

1. On August 20, 2024, OBBP filed a Verified Petition in New York Civil Court, Kings County against debtor One15 Restaurant LLC seeking, *inter alia*, possession of the premises with the issuance of a warrant to remove. *In Re: OBBP Retail Owner, LLC v. One15 Restaurant LLC d/b/a Estuary at One15 Brooklyn Marina a/d/b/a Estuary Brasserie & Bar a/d/b/a Ebb & Flow*, Case No. LT-326262-24/KI (the "**State Crt. Action**").

2. On September 26, 2024 (the "**Petition Date**"), the Selling Debtors, together with their affiliate and sole member, One Edge Marina Finance Company LLC ("**One Edge**" and together with the Selling Debtors, the "**Debtors**") each filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of New York (the "**Chapter 11 Cases**").

3. OBBP is a creditor of the Restaurant Debtor based on its ownership of the commercial condominium unit Commercial Units #1 and #7, in the Condominium, said Premises also being known as 159 Bridge Park Drive, Brooklyn, New York 11201 and its Restaurant Lease (as defined below) with Restaurant Debtor.

4. On October 18, 2024, the Debtors filed the Sale Motion seeking, *inter alia*, the private sale of substantially all of the Selling Debtors' assets to purchaser Radcliff Management LLC, or its assignee or designee ("**Purchaser**"), and the assumption and assignment of the unexpired lease between 360 Brooklyn Investors LLC, as landlord and One15 Restaurant LLC, as tenant, March 1, 2016 (the "**Restaurant Lease**"). As discussed below, the Sale Motion provides, in relevant part, that if the Purchaser and OBBP cannot reach agreement on going forward lease terms, the Purchaser would not acquire the restaurant assets. The Purchaser and

OBBP are engaged in good faith discussions regarding the terms of a new or modified lease, but, as of the date hereof, no definitive agreement has been reached. Accordingly, OBBP has filed this limited objection and reservation of rights to protect its interests and claim.

LIMITED OBJECTION

5. Under 11 U.S.C. § 365(b), Debtors are required to cure any default in connection with a contract to be assumed and assigned. The Debtors have estimated the cure amount under the Restaurant Lease at \$234,000 which is lower than the actual cure amount of \$305,905.26, including post-petition rent amounts. OBBP reserves all of its rights to a cure payment in the amount reflected above in addition to other rights to adequate assurance of future performance, a suitable replacement guaranty and a "market" security deposit.

6. As reflected in FN 2 of the Sale Motion, the ". . .the APA provides that the assumption of the Restaurant Lease is conditioned upon the Purchaser negotiating an acceptable amendment to such lease that provides for, *inter alia*, an extension on the remaining term. In the event that an amendment is not secured, the Purchaser may elect not to purchase the Restaurant Assets and the Restaurant Lease would not be assumed. . . "

7. OBBP and the Purchaser are in negotiations for the assumption and assignment of the Restaurant Lease. If the negotiations fail, OBBP will assert its unsecured and administrative claim in their full amount. To the extent the Purchaser and OBBP cannot negotiate an acceptable amendment to the lease, OBBP requests language in the sale order: (i) memorializing that the Debtors' interest in the lease is deemed automatically rejected; (ii) directing the Debtors to vacate the Premises within five (5) business days from entry of the Sale Order; and (iii) vacating the automatic stay to authorize OBBP to pursue its state court remedies in the State Crt. Action.

RESERVATION OF RIGHTS

8. OBBP reserves its right to amend and/or supplement this objection to assert and claim any additional amounts that may be due under the APA and to assert any further and additional objections to the Debtors' proposed assumption and assignment to the extent appropriate

CONCLUSION

WHEREFORE, OBBP respectfully request entry of an order (i) conditioning the assumption of the APA upon the cure of all monetary defaults thereunder; and (ii) granting such other and further relief as the Court deems just and proper.

Dated: New York, New York
October 25, 2024

AKERMAN LLP

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